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New York City Taxi & Limousine Commission (TLC)
New York City Council Committees on Oversight and Investigations & Transportation
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Good morning Chair Torres, Chair Rodriguez, and members of the Oversight and Investigations & Transportation Committees. I am Bill Heinzen, Acting Commissioner of the New York City Taxi & Limousine Commission (TLC). Thank you for inviting me to testify today about TLC's regulation and licensing of medallion taxicabs, and to share TLC's views on Intro. Nos. 1584, 1605, 1608 & 1610. With me today is Chris Wilson, the TLC's Deputy Commissioner for Legal Affairs.

The TLC's mission is to ensure safe, accessible and reliable for-hire transportation options for every New Yorker in every neighborhood. Under this administration, New York City has become a national leader in the regulation of for-hire transportation through innovative ways to measure and control the impact of the app companies, to ensure that passengers with disabilities have access to the full range of for-hire transportation services, to make sure that drivers have a voice and that they are heard, and to provide economic protections for drivers that have yielded real victories for workers who have suffered from being categorized as independent contractors not entitled to employ benefits in the gig economy. We have made much of this progress in partnership with City Council, and some of these accomplishments include:

- In 2014, TLC created the Taxicab Improvement Fund (TIF) to increase the number of accessible taxicabs. Medallion owners required to purchase and operate wheelchair accessible vehicles (WAV) were eligible for up to $30,000. $14,000 was provided at the time of vehicle purchase and $4,000 per year over four years while the taxi remained in service. In January 2019, TLC expanded the program to continue those payments for as long as the accessible vehicle remains in service and opened up eligibility to any owner placing a wheelchair accessible vehicle into taxi service, whether required to or not. To date TLC has distributed $52.6 million in payments to owners. The Taxi Improvement fund also incentivizes drivers to drive accessible vehicles by providing a per trip payment for any trip made in an accessible taxi regardless of passenger type. TLC just increased this payment from 50-cents to one dollar per trip. Payment is made directly to drivers, and to date the TLC has distributed $19.3 million in payments to taxi drivers.

- In early 2016, TLC eliminated operational restrictions in our rules that had required some medallions to be driven by the owners, while other medallions were forced to operate in the fleet model.
- In July 2016, the Council, through legislation sponsored by Chair Rodriguez, created a universal license for taxi and for-hire vehicle drivers, allowing drivers more flexibility and more opportunity, and allowing taxi owners to attract drivers who had previously been limited to driving for-hire vehicles.
- In early 2017, TLC worked with Council to pass Local Law 58, also sponsored by Chair Rodriguez, lowering the medallion transfer tax (from 5% to .5%), which previously represented a financial barrier for many looking to buy or sell a medallion.
- In March 2018, TLC allowed taxis to offer upfront pricing to better compete with the apps.
- In April 2018, TLC amended vehicle specifications in our rules to expand vehicle choice, allowing owners to choose the type of vehicle and price point that best works for them and their drivers.

- In August 2018, Council created a new category of High Volume For-Hire Service Providers, defined as bases that dispatch over 10,000 trips daily, in order to allow for more fine-tuned regulation of the app companies. These High Volume services are now required to provide more data to TLC and to pay their drivers at a rate equivalent to the minimum wage.
- In December 2018, TLC reduced the credit card processing fees drivers are charged when leasing taxis from $11 to $7 per shift in our rules, putting this cost more in line with processing fees in other industries and saving the average driver $100 a month.
- Also in 2018, the Council waived medallion renewal fees for owners of accessible medallions.

Additionally, after the unsuccessful attempt to cap the number of app cars on the streets in 2015, last year the Mayor and the Council paused the issuance of new for-hire vehicle licenses for one year with Local Law 147 and instructed TLC and the Department of Transportation to study the impact of unregulated growth in the High Volume For-Hire vehicle sector on traffic congestion and access to services throughout the city. The legislation gave TLC the power for the first time to set the number of for-hire vehicle licenses, which had more than quadrupled since 2014.

Working with you and Mayor de Blasio, the passage of Local Laws 147 and 150 represented groundbreaking regulation of the app companies. Local Law 150 required TLC to implement app-based driver pay protections based on a study of driver economics that the agency commissioned. These regulations, which took effect in February of this year, have resulted in 86,000 drivers receiving an additional $172 million dollars as of last month.

As the Mayor announced earlier this month, TLC has proposed regulations to extend the initial one-year cap on for hire vehicle licenses, set to expire in August 2019, for at least one additional year. The proposed license cap would not apply to wheelchair accessible vehicles and all-electric vehicles, to accelerate the growth of a greener, more accessible for hire vehicle fleet. The proposed cap, as with the current one-year cap in place today, would have no impact on existing FHV licensees. After the initial year, and every six months thereafter, the TLC would review the number of for-hire vehicle licenses on a regular basis to determine if more licenses should be allowed, based on factors including congestion, driver income, wait times and availability of service citywide, particularly in the outer boroughs. The proposed rules also mandate an increase in operating efficiency through a cap on cruising to ensure the app companies are held accountable for the oversupply and underutilization of drivers in the Manhattan core and to reduce congestion caused by empty vehicles providing no passenger service.

The work that the administration and the Council have done together continues. As announced earlier this month, TLC has stopped collecting medallion renewal fees from yellow cab medallion owners for the 2019-2020 cycle and has pledged to work with you on Intro. 1360, sponsored by Councilmember Levine, to waive these fees for medallions owners.

Additionally, in November 2018, Council passed Local Law 220, sponsored by Councilmember Salamanca, requiring TLC to offer driver assistance services. Since 2018, TLC's External Affairs team has done over 100 outreach events in all five boroughs. The team interacts directly with approximately 15 major stakeholder groups, more than 950 bases, and almost 260,000 licensees. They meet drivers at houses of worship, community fairs and events. Our events focus on mental health and financial education, and all events allow for drivers to ask questions about licensing issues, summonses, TLC rules, and upcoming changes at the agency.

In Spring 2019, TLC External Affairs began hosting events focused on medallion owners, partnering with the Office of Financial Empowerment, ThriveNYC and the city Sherriff, to meet directly with drivers who own medallions, learn if lenders are working with them to right-size loans, investigate allegations of broker misconduct, and present information about available no-cost resources. The team will continue to host these medallion-owner focused events, as well as events tailored to all segments of TLC's driver population, in the communities where they live. Building on this work, the City will create a new Driver Assistance Center that will have on-site staff to help connect drivers with resources including financial counseling, health services, City benefits and dedicated professionals who will advocate for owners with financial institutions to right-size loan principals, payments and schedules.

As I said, much of this progress has been a direct result of the partnership between the administration and the City Council. Under the Charter, the City Council has an oversight role over all City agencies, including the TLC. However, to a greater extent than with many other agencies, the Council's relationship with TLC is larger than just oversight. The Council plays an important role in setting the agency's regulatory priorities. The TLC has nine commissioners appointed by the Mayor with the advice and consent of the Council, one of whom serves as Chairperson and Chief Executive Officer. Of these nine, the City Council has a direct role in the appointment of five commissioners, each of whom must reside in one of the City's five boroughs and have the support of the majority of the council members from the borough before nomination by the Mayor and confirmation by the Council.

TLC regulates the industry through rulemaking, but the Council also regulates the industry by local law, often requiring the TLC to do specific rulemaking. In this way the Council has created specific license categories, set penalties for violations by licensees and authorized the sale of medallions. The Council has also ordered studies and taskforces to address and measure issues it finds to have a critical impact on the city's for-hire industries. During regular hearings, through legislation, and in meetings with individual members, the Council has always made clear to the TLC its preferred priorities for the agency, and has let us know when it thinks that we got something wrong.

But TLC's regulatory authority does have limits. TLC licenses and regulates medallion owners, but it does not regulate the lending industry, including banks and credit unions who wrote, refinanced and hold medallion loans. We do regulate persons and entities who have played a role in connecting buyers with medallion sellers, and therefore, at Mayor de Blasio's direction, TLC, the Department of Finance and the Department of Consumer Affairs and Worker Protection have undertaken a 45-day review to evaluate the role brokers played in the medallion crisis, to identify any broker misconduct and to consider new, more stringent regulations that can identify and prevent potential conflicts that may put medallion buyers and sellers at a disadvantage. TLC will publish a report summarizing the review and proposing immediate and long-term changes in early July, but the work will be ongoing, and I know that the Council will play a key role in that process.

The Committee on Oversight and Investigations is also looking into the medallion crisis. I want to be very clear on this point: TLC takes this investigation seriously and has worked with Council diligently and in good faith. In November 2018, TLC received a document request from the committee. The request sought a large number of documents spanning 22 years (January

1997 to present). Thus far, TLC has identified, reviewed and produced over 2,500 pages of responsive documents. TLC staff have had several meetings and calls with Council staff to clarify the request, identify additional records the Council may wish to review and develop priorities and a partial production schedule. Earlier this month, TLC staff and City Hall counsel confirmed with Council's attorneys that our production was satisfactory for them to make determinations about future requests, and we were assured that it was. We have dedicated significant time and resources to responding to the document request, and we will continue to do so.

The TLC now licenses over 205,000 drivers and over 135,000 vehicles who safely and reliably transport over one million passengers each day. The New York City taxi medallion conveys the exclusive right to pick up street hails throughout all five boroughs. Today, there are 13,587 medallions. Approximately 1,985 of those are currently in storage.

The medallion system was created in 1937, in response to "an overabundance of taxis that depressed driver earnings and congested city streets." The Board of Aldermen, the predecessor to the City Council, established the Police Department's Hack Bureau as the regulatory body and adopted the Haas Act, which created the taxi medallion system and a comprehensive regulatory structure, as well as a mechanism for the decrease or increase of medallion licenses as necessary. The Haas Act imposed a moratorium on the issuance of new taxicab licenses and allowed for the transfer of medallions between owners. This transferability, combined with a limit on the overall number of medallions, is core to the market value of the medallion.

The City may auction off new medallions only after State or City Council authorization. For many years, the number of medallions remained consistent at 11,787. In 1996, the Council approved the first “modern” auction of 400 new medallion licenses. These sales raised the number of licenses to 12,187. State and local legislation gave the TLC the authority to hold multiple auctions in 2004, where almost 600 new taxi medallions were to be auctioned. In 2006, the Council approved Local Law 18 permitting the sale of 254 new alternative fuel taxi medallions and 54 new accessible taxi medallions, raising the number of licenses to approximately 13,100.

The most recent increase in the number of medallions was authorized by the 2012 State law that authorized street hail livery service. The HAIL law provided for the sale of up to 2,000 medallions for use with wheelchair-accessible taxicabs. The legislation was a response in part to findings that the medallion industry’s capacity was not sufficient to meet citywide demand for service, and that there was an urgent need for wheelchair accessible vehicles. Indeed at that time there were only 233 wheelchair accessible taxis; today there are ten times that many. 400 of the 2,000 wheelchair accessible medallions were scheduled to be auctioned in 2013 and 2014. Two auctions were held in early 2014 – they generated little interest despite high trip and farebox numbers, and no further auctions were scheduled.

Although by 2014, Uber, Lyft and Juno had begun operating in New York City, the apps’ initial growth was slow until 2015. While the TLC lacked the authority to limit the number of for-hire vehicle licenses, they have always operated subject to the City’s for-hire regulations. This was a significant legal victory that the City fought for and won, and without which the strides we have made together to regulate the apps and control for-hire transportation would not have been possible. Increasing competition from the apps was not the sole cause of the medallion value’s decline, but the eventual steep decline in yellow taxi trips has resulted in real economic loss and impacted medallion owners’ ability to make loan payments and support their families. Analysis of farebox data – the amount a cab earns in a given period – demonstrates that, when you look at the revenue a driver takes home (excluding taxes and fees paid by the passenger that do not go to the driver), the decline per cab is significant and well over the ten percent that has been reported. This decline is only part of the story for medallion owners. Not only have they lost passengers when they are driving their cab, they have also lost lease income of second and third shift drivers who previously leased cabs during those times when the owner/drivers were not working.

In evaluating how this crisis occurred and what more might have been done to help the traditional for-hire industries, it is important to look at the role of TLC. It also important to look at the role of the large medallion owners who impacted the market, the banks and credit unions who financed and refinanced taxi medallions, and at the financial regulatory agencies with oversight of those institutions.

Medallions sold at auction represent a portion of all medallion purchases. As mentioned previously, the Haas Act made medallions transferable, meaning that they were an asset that could be bought and sold, and leading to the creation of a secondary market for medallions. The purchase price of these private sales is reported to TLC, and the transaction is subject to a City transfer tax, which is now .5%.

TLC is the agency that reviews and approves the transfer of medallions from one owner or entity to another, whether that is by auction or on the secondary market. This review consists of receipt of several documents including information about the person buying a medallion, or if it is a corporate entity, the officers, shareholder partners or members. The purchasing party or parties are subjected to a criminal background check, and the purchaser must submit proof of ability to purchase, typically a commitment letter from a lender.

The TLC licenses and regulates brokers who assist medallion owners and prospective purchasers in medallion sales. In 1984, the City Council created a license for Taxicab Brokers. A taxicab broker is an individual, partnership, corporation or LLC that acts as an intermediary in negotiating the transfer of a taxi medallion. The role is analogous to an agent in a real-estate transaction. As I stated, at the direction of the Mayor, TLC is currently undergoing a review of the broker's role in transactions and of our regulation of that role in order to make any necessary reforms. The work is ongoing and we look forward to sharing the results of our investigation soon.

Beyond these actions related to recording medallion transfers and licensing the new medallion purchaser, TLC has a very limited role in the actual financing of medallions. TLC does not assess the financial health of potential buyers beyond receiving a commitment letter for a purchase. TLC does not regulate financial institutions that make or hold medallion loans, and we do not regulate the loans themselves. TLC therefore lacks the power to investigate, compel documents from or discipline credit unions or other lenders for their unsound lending practices. TLC cannot order that the terms of a medallion loan be altered, or that a loan be nullified. TLC cannot set or limit payment amounts, or interest rates or amortization schedules. TLC also lacks the regulatory authority to review and approve medallion loan refinancing, which does involve any transfer of an interest in a medallion, and where many abuses have been reported.

The power to oversee lending institutions and to set rules for evaluating whether to make loans for the terms of those loans lies with state and federal agencies. First, the New York State Department of Financial Services (DFS) is the primary regulator for all state-licensed and state-chartered banks, credit unions, and mortgage bankers and brokers. All mortgage loan servicers doing business in New York State must be registered or licensed by DFS. The Department also investigates and prosecutes insurance and financial fraud, working with law enforcement and regulatory agencies at all levels of government.

Another government entity with regulatory oversight of the banks that have held medallion loans is the Federal Deposit Insurance Corporation (FDIC). The FDIC is an independent federal agency insuring deposits in U.S. banks and thrifts in the event of bank failures. To minimize losses to the insurance fund, the FDIC examines and supervises the practices of all FDIC-insured financial institutions for safety and soundness.

But the regulator with the most power over taxi medallion loans, and the only regulator directly impacting the financial stability of many drivers today, is the National Credit Union Administration (NCUA), an independent federal agency created by Congress to regulate, charter, and supervise federal credit unions. At the height of the medallion prices, credit unions held New York City taxi medallion loans valued in excess of $2.47 billion.

After the failure of three credit unions heavily concentrated in taxi medallion loans, Melrose Credit Union, LOMTO Federal Credit Union and Bay Ridge Federal Credit Union, the NCUA Office of Inspector General reviewed the actions of these institutions, their boards and the NCUA's own regulators to determine the causes of the credit unions' failure and the resulting estimated $765.5 million loss to the National Credit Union Share Insurance Fund, and assess NCUA's supervision of the credit unions. In March 2019, the NCUA's self-audit report found that the credit unions failed due to deeply flawed lending practices, weak board oversight over risky management decisions.

The report found that credit unions often failed to do the most basic analysis of borrowers' ability to repay the loan. These lending practices impacted not only purchasers, but all medallion owners. Set up as short-term balloon loans, borrowers were required to go to their lenders each time the loan became fully due, typically every three years, to refinance their loans for another term. At each refinancing, borrowers were made aware of the current value of their medallion and informed that they could borrow against the equity in their medallion. In other words, they were encouraged to "cash out" and receive immediate funds, which were of course added on top of the principal they already owed and subject to a new interest rate. The growing value of the medallion allowed many hardworking families to borrow against the equity in their medallion to purchase a home for their family or put their kids through college. However, the result is that today, many owners we speak to, regardless of when they purchased their medallion, at what price, owe more than $600,000.

Although loan examiners documented these unsound lending practices, the credit unions refused to address the examiners' concerns. The reasons for inaction were varied, but one fact from the report may illustrate the larger problem: a law firm hired to perform an internal investigation found that the CEO of Melrose Credit Union authorized spending over 1.3 million dollars of credit union funds on sports tickets for his friends and family. Most troubling, however, were the findings of the audit related to NCUA's inaction in response to loan examiner's findings. The audit revealed that NCUA was aware of the unsound lending practices going as far back as October 2011. However, the NCUA took no action until April 2014, only after the medallion market began showing signs of weakness, when it released supervisory letter 14-04 which "establish[ed] a consistent framework for the examination and supervision field staff use to review loans secured by taxi medallions."

But instead of calling for lending institutions to work with borrowers to right-size loans to appropriate balances that could be supported by their income, the guidance called for the opposite. Specifically, the guidance instructed lending institutions to "shorten the amortization period if industry volatility is evident or expected." For medallion owners and drivers, this meant that as the value of medallions began to fall, the NCUA directed lenders to shorten the loan's amortization schedule, thereby increasing drivers' monthly loan payments.

The NCUA is particularly important because it serves not only as the regulator but – after having taken over a number of credit unions active in medallion lending – also as the direct lender. Today, the NCUA is almost certainly the holder of the largest number of medallion loans, and thus it is the NCUA that is deciding whether or not to provide financial relief to many of our drivers. Based on our outreach to drivers, it is the institutions now controlled by the NCUA that have been the most aggressive with drivers during this challenging period.

Under former Commissioner Joshi and continuing today, the TLC has regularly met with lenders as well as the NCUA to advocate for borrower relief. On September 25, 2017, she advised the Council that she had urged medallion loan holders and the NCUA to write down the loans and allow people to borrow in amounts and at rates that would allow them to continue to operate and make payments on a right-sized loan.

Some lending institutions are beginning to modify loans, but our driver outreach tells us most have received any relief, and, for those that are, often the relief does not go far enough. Lending institutions have told us that they have already written down the value of these loans on their books, but these accounting steps have not been passed on to benefit drivers. I hope that together, the Council and TLC will continue to advocate for lenders to right-size these loans and for their regulators to require that that they take these steps if they refuse. Writing down loan principals to levels supported by the income a cab driver earns provides immediate relief to drivers as well as stability to the medallion industry. I also hope that together we can call on the

NCUA, the FDIC and DFS to take necessary steps to ensure these unsound lending practices do not return to the medallion sector.

As I mentioned, the Mayor has directed that the existing driver assistance services required by local law be expanded and located in a permanent driver assistance center. In addition to the Broker Review, the mayor has also directed that the TLC expand its capacity to conduct ongoing reviews of our licensees, which we will do through a new Business Practices Accountability Unit. The unit's mission will be to protect TLC drivers, medallion owners and other licensees from dangerous and unfair industry practices by businesses that fall under TLC regulation. The Accountability team will be tasked with increasing accountability and transparency of business practices in the for-hire transportation sector. To promote sound business practices, the Accountability Unit will collaborate with agency partners to investigate violations of TLC rules and relevant local, state or federal regulations. The team will expand the 45-day study of broker practices to the other TLC-licensed businesses and undertake a comprehensive review of existing TLC rules governing TLC-licensed business conduct to identify areas where new regulations are needed to protect drivers. It will be fully incorporated into TLC operation and working with other divisions within TLC, including licensing, prosecution and external affairs, on any necessary revisions to the licensure and renewal process, assisting in investigation of rule violations by TLC-licensed businesses and educating drivers of their rights when working with a TLC-licensed business.

I would now like to comment briefly on the proposed legislation.

Intro. No. 1584 would amend the Administrative Code to require any person who has any interest in a taxi medallion to make annual financial disclosures to the TLC, which would include: a list of each such medallion and other TLC licenses held by the filer; gross income and expenses connected with the medallion; the total amount of taxicab liability insurance premiums paid; outstanding balances of all loans secured by taxicab licenses; the number of medallions that are and are not collateral for a secured loan; and any other interests the filer has in any taxi, livery, or for-hire vehicle business, whether or not licensed by the commission. Every two years the TLC holds a public hearings to assess the adequacy of our fare and lease cap structure, and whether changes should be made. Relevant factors include the expenses of operation of medallion owners and their agents, the amount of revenue necessary to generate a fair and reasonable rate of return to a medallion owner, changes in economic circumstances of medallion owners since the previous adjustment in the lease caps, and the economic condition of the taxi industry. This bill would allow for collection in a more systemic way and be less dependent on a hearing schedule We would like to work with the Council as soon as possible to determine how the information collected under this bill could be useful for those and other determinations and to revisit any categories that may be duplicative.

Intro. No. 1605 would require that, before approving the purchase or transfer of a taxi medallion, the TLC must review documentation of the source of funds to be used for the purchase or transfer, and, if it is financed by a loan, determine that the prospective purchaser or transferee could reasonably be expected to make the required payments. This would be a significant expansion of the role TLC has historically played in the transfer process and would require a skillset the agency does not currently possess. Part of the challenge is for the City to help purchasers make more informed decisions without leading parties to think that the City has in some way endorsed or guaranteed the terms of what is essentially a business transaction. Additionally, it is important to consider the unintended consequence that the bill may make it more difficult for owner-drivers who wish to sell to find a purchaser, or that the most likely purchasers would be large financial institutions. We are very open to working with Council and consumer finance experts with expertise in lending to determine the most effective way to protect potential purchasers without unnecessarily impeding the ability of individuals to purchase and operate medallions.

Intro. No. 1608 would require the TLC to collect information about medallion transfer applicants and to evaluate the character and integrity of taxicab brokers, agents, and taxicab licensees. The evaluation process would include background checks, finger printing and disclosure of certain pending indictments or criminal actions, as allowed under the State Correction Law. Under current TLC rules, the agency fingerprints brokers, agents and medallion owners for the purpose of conducting background checks and receives ongoing information about arrests that allows us to continually review, in a manner consistent with the State Correction Law, the criminal record of licensees and applicants. We also receive relevant incorporation documents. As previously referenced, at Mayor de Blasio's direction, the TLC, Department of Finance and Department of Consumer Affairs have undertaken a 45-day review to identify broker misconduct and consider new, more stringent regulations that can identify potential conflicts that may put potential buyers at a disadvantage. Additionally, and as I also mentioned, TLC is expanding its capacity to conduct ongoing reviews of this nature by creating a new Business Practices Accountability Unit (BPAU). The unit's mission is to protect TLC drivers and medallion owners from dangerous and unfair industry practices by businesses that fall under TLC regulation. I believe these actions are in accordance with the goals laid out by this bill. Informed by the broker review and our development of the Accountability Union, we would like to work with Council to determine additional ways to make our licensing reviews more effective and to ensure that our licensees meet integrity requirements both at licensing and throughout their term of licensure.

Intro. No. 1610 would establish the Office of Financial Stability within the TLC in collaboration with the Department of Investigations to monitor the financial stability of the taxicab industry. The office would consider the long- and short-term financial stability of the medallion market, methods for calculating the minimum bid price for medallions, potential market manipulation, speculation and/or collusion in taxicab medallion auctions and transfers, bankruptcy proceedings and the number of proposed medallion transfers that the commission did not approve. The office would make annual reports to the Speaker and the Mayor of its activities and any recommendations. TLC supports the objective and we believe that the Business Practices Accountability Unit is well-placed to serve this function. Intro. No. 1610 also requires TLC to conduct any investigations concerning industry stability that is referred to it by the Speaker. I suggest that further discussion is needed regarding the role of the Department of Investigation in these investigations, as the Council already has the authority to make referrals to the Department of Investigation, and TLC is of course subject to DOI's jurisdiction. I am confident that we can work to ensure that these proposed processes and safeguards best serve our licensees and New Yorkers.

Thank you for allowing me to testify today